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JUSTICE PROJECT PAKISTAN

PRESS RELEASE

LHC commutes death sentence of juvenile imprisoned for 20 years

Lahore, June 9, 2020: The Lahore High Court (LHC) has commuted the death sentence of Muhammad Iqbal, a juvenile offender who had been entitled to relief for nearly twenty years.

In a landmark judgement, a two-member divisional bench of the LHC allowed the petition filed by Justice Project Pakistan and commuted Iqbal's death sentence to life imprisonment. Authored by Hon'ble Chief Justice of LHC Muhammad Qasim Khan and Justice Asjad Javaid Ghural, the judgement relied on the Presidential Notification No. F.8/41/2001-Ptns, Article 37 (a) of UNCRC and Article 6 Paragraph 5 of ICCPR protecting juvenile offenders from the death penalty.

The judgement reads:

"....firstly the international legislation and secondly our domestic legislation impose a clear ban on the infliction of death penalty on an accused under the age of eighteen years, thus, the claim of the petitioner to seek benefit which otherwise, was fully available to him under the policy, having the force of law, could not have been denied…."

"Iqbal's hanging would have been a terrible travesty of justice. While the past cannot be undone, the honourable high court has – quite literally – given him a new lease on life," said the learned counsel, Advocate Ahmed Hassan Khan, while commenting on the judgment. "Iqbal has already spent the duration of a life sentence in jail and I hope this verdict paves the way for his release."

The court also established that in cases like Iqbal where the juvenility of the offender is not in question, matters of commutation are not required to be referred to the Presidency.

Political Rights, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment while urging Pakistan to stop Iqbal's execution. The high court also relied on these international commitments to find Iqbal's death sentence illegal.

Just 17 years old at the time, Iqbal was arrested along with four other accused in 1998 for fatally shooting a man in Mandi Bahauddin. The following year he was sentenced to death under the Anti-Terrorism Act (ATA) even though an ossification test confirmed his age to be 17 at the time of the alleged offence.

The trial was marred by glaring holes in the prosecution, discrepancies in eyewitness testimonies, and evidence of torture. Iqbal was the only one to be handed the death penalty while the other co-accused were all only sentenced to 10 years and have already been released.

In 2004, the victim's family forgave Iqbal and withdrew their petition, but Anti-Terrorism Court, Gujranwala refused to accept this due to the non-compoundable nature of the offence. The high court then confirmed his death sentence in 2006 and the Supreme Court consequently rejected his appeal in 2007.

Instead of exercising its powers to commute Iqbal's death sentence according to the presidential notification, the home department forwarded a mercy petition on Iqbal's behalf to the president. It was rejected in March 2016 and a death warrant was issued scheduling his execution on March 30, 2016 only to be stayed after his review petition was filed in the Supreme Court.

Sarah Belal, Executive Director of Justice Project Pakistan, adds: "Finally, it is the Lahore High Court that has lifted the sword unjustly hanging over Muhammad Iqbal for so long. A teenager should never have spent over 20 years on death row, to begin with. It is appalling that it took so long for Iqbal's sentence to be commuted, at times bringing him within days of his execution. This judgement will set the right precedent in line with the Juvenile Justice System Act and the UN Convention on the Rights of the Child."

available to him under the policy, having the force of law, could not have been denied by the departmental authorities at their level and no legislation could compel them to still refer the matter to the President of Pakistan for consideration merely on the ground that some earlier mercy petition had been dismissed by the President.

11. For what has been discussed above, we declare that the order dated 04.05.2018 passed by Additional Chief Secretary (Home) sending the reference to the President of Pakistan, is nullity in the eyes of law. Consequently, as otherwise, factual as well as legal position about the claim of the petitioner has not been denied by the respondents, his age of juvenility has already been undeniably assessed by the learned trial court as required by Section 7 of the Juvenile Justice System Ordinance, 2000, therefore, instead of sending the petitioner back to learned trial court for reexamination/ reevaluation of his age, in exercise of our jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, we commute the death sentence of the petitioner to imprisonment for life, whereas, his other convictions/sentences if any under the same trial, shall remain intact.

-Sd-
(Asjad Javaid Ghural)
Judge.

-Sd-
(Muhammad Qasim Khan)
Judge.

For the full judgement and other relevant material, click here

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EDITOR'S NOTES

Justice Project Pakistan is a legal action organization based in Lahore that represents the most vulnerable Pakistani prisoners facing the harshest punishments, at home and abroad. JPP investigates, litigates, educates, and advocates on their behalf.

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